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JS-6

25 **UNITED STATES DISTRICT COURT**
26 **CENTRAL DISTRICT OF CALIFORNIA**

27 MARC CAIN GMBH., a corporation of
28 Germany,

Plaintiff,

v.

EUREX, LLC, a New Jersey Limited
Liability Company; and DOES 1 through
10,

Defendants.

Case CV12-06613-ODW (FMOx)

Honorable Otis D. Wright II

**CONSENT JUDGMENT AND
PERMANENT INJUNCTION**

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1 Plaintiff MARC CAIN GmbH (“Marc Cain”) and defendant EUREX, LLC
2 (“Eurex”), in compromise and settlement of this action on the terms and conditions
3 of a Settlement Agreement separately entered into between them, having agreed
4 that a Consent Judgment and Permanent Injunction should be entered between
5 them and good cause appearing therefor, but without any admission of liability by
6 any of Marc Cain and Eurex for any of the acts complained of in the pleadings on
7 file in this case,

8 IT IS ORDERED, ADJUDGED, AND DECREED:

9 1. This case arises under the Trademark Act of 1946, 15 U.S.C. 1051 1127,
10 and the Trademark Counterfeiting Act of 1984, 15 U.S.C. 1116(d), 1117(b), and
11 1118. This Court has jurisdiction over the subject matter thereof pursuant to 15
12 U.S.C. 1121, 28 U.S.C. 1338(a), 28 U.S.C. 1331, and 28 U.S.C. 1332. The
13 claims arising under California state law and under common law rights are joined
14 with the substantial and related claims under the Trademark Laws of the United
15 States, 15 U.S.C. 1051 1127. The parties to this Consent Judgment hereby
16 consent to the personal jurisdiction of this Court in this action, and of this Court to
17 enforce the terms and provisions of this Consent Judgment and Permanent
18 Injunction.

19 2. Eurex, its officers, agents, servants, employees, attorneys, and those
20 persons in active concert with them who receive actual notice of this order by
21 personal service or otherwise, shall be and hereby are permanently restrained and
22 enjoined in the United States and throughout the world from engaging in any of the
23 following activities without the permission of Marc Cain:

24 2.1. Registering or filing any application to register any
25 designation containing or consisting of the words Marc Cain, or any mark to
26 which there is a likelihood of confusion with the words Marc Cain, in any
27 class and with respect to any goods or services, and further agree to not use
28 any such mark for any goods or services;

1 2.2. Registering or filing any application to register any
2 designation containing or consisting of the Marc Cain shield mark as set
3 forth in canceled U.S. trademark reg. no. 3928876, and the marks shown in
4 U.S. trademark application serial nos. 85567011, 85567026, 85567034,
5 85567020, 85567029, and 85567038.

6 2.3. Registering or filing any application to register any domain
7 name that includes or consists of the words Marc Cain, or any other word or
8 characters or design to which there is a likelihood of confusion with the
9 words Marc Cain;

10 2.4. Having any commercial use whatsoever of the word Marc
11 Cain, the Marc Cain shield mark, or any other word, character or design to
12 which there is a likelihood of confusion with either the word Marc Cain or
13 the Marc Cain shield mark;

14 2.5. Making any negative statements about, or in any manner
15 misrepresenting, Marc Cain, its affiliates, and their respective officers,
16 directors, agents, employees, shareholders, successors, assignees, or
17 customers;

18 2.6. Taking any legal action in the United States or anywhere else
19 in the world against Marc Cain, its affiliates, and their respective officers,
20 directors, agents, employees, shareholders, successors, assignees,
21 distributors, suppliers or customers, relative to Marc Cain's production,
22 sales, marketing or distribution of any Marc Cain labeled products or
23 services; and

24 2.7. Contacting, making further contact with, or providing any
25 contact information to any entity for any of, Marc, Cain, its affiliates, and
26 their respective officers, directors, agents, employees, shareholders,
27 successors, assignees, distributors, suppliers or customers, relative to Marc
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1 Cain's production, sales, marketing or distribution of any Marc Cain labeled
2 products or services.

3 3. This Court shall have continuing jurisdiction to enforce this Consent
4 Judgment and Permanent Injunction.

5 4. The Parties herein, as between and among themselves, shall each bear
6 their own costs and attorney's fees in the present action.

7 The Court expressly finds, pursuant to Rule 54(b), Fed. R. Civ. Pro. that
8 there is no just reason for delay in entering this Consent Judgment, and expressly
9 directs entry of such judgments.

10 Dated: January 23, 2013



11 _____
12 Honorable Otis D. Wright II
13 United States District Judge
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